APPENDIX A

Order of Court Below

(Filed March 17, 1966)

Present: HON. J. EDWARD LUMBARD, *Chief Judge,*
HON. THOMAS W. SWAN,
HON. IRVING R. KAUFMAN,
Circuit Judges.

Further consideration of the motions herein which culminated in the orders of this court of April 2, 1965 having been had and a motion having been made by counsel for the International Union of Electrical, Radio and Machine Workers, AFL-CIO to intervene, to consolidate the actions and to defer reconsideration of the Company's motion to dismiss Union's petition for review,

Upon consideration thereof, it is

Ordered that the Union's motion to intervene in N.L.R.B. v. General Electric Company, action No. 29502 and in General Electric Company v. N.L.R.B. action No. 29576 be and it hereby is granted.

Further ordered that consolidation of N.L.R.B. v. General Electric Company, action No. 29502 and General Electric Company v. N.L.R.B. action No. 29576 be and it hereby is granted.

Further ordered that the petition to review in International Union of Electrical, Radio & Machine Workers, AFL-CIO v. N.L.R.B. action No. 29577 be and it hereby is dismissed.

A. DANIEL FUSARO
Clerk

APPENDIX B

Opinion of Court Below

(Filed March 17, 1966)

Before: LUMBARD, *Chief Judge*, SWAN and KAUFMAN, *Circuit Judges*.

Reconsideration of orders of this court entered on April 2, 1965, and vacated by the United States Supreme Court on January 17, 1966, and of an additional motion and papers submitted by the parties at this time. The previous orders are modified.

PER CURIAM:

All three of these cases arise out of proceedings before the National Labor Relations Board upon charges filed by the Union which resulted in a single decision and order issued by the Board against General Electric on December 16, 1964, 150 N. L. R. B. No. 36.

In No. 29502, the Board has petitioned for enforcement of its order. In No. 29576, General Electric has petitioned to review and set aside the Board's order. In No. 29577, the Union has petitioned to review the Board's alleged failure to find certain unfair labor practices and to order General Electric to cease and desist therefrom.

On April 2, 1965, this court issued a series of orders which granted a motion by General Electric to intervene in No. 29577 and dismissed the Union's petition to review on the ground that the Union was not "aggrieved" by the Board's order, see N. L. R. A. § 10(f), 29 U. S. C. § 160(f); denied the Union's motion to intervene in No. 29502 on the ground that a wholly successful charging party has no such standing to intervene in the appellate review of the Board's order, see *Fafnir Bearing Co.* v. *N. L. R. B.*, 339 F. 2d 801 (2 Cir. 1964); and granting the Board's motion to consolidate Nos. 29502 and 29576.

This court's holding in *Fafnir* was reversed, sub nom., *Automobile Workers* v. *Scofield*, 382 U.S. 205 (1965). On January 17, 1966, the Supreme Court vacated our aforesaid orders in these cases and remanded "for further consideration in light of Automobile Workers v. Scofield." Upon such further consideration, we conclude that the Union's motion to intervene in No. 29502 must be granted. We renew our previous order consolidating Nos. 29502 and 29576; the Union will be permitted to intervene in the consolidated action.

The Union urges that we consolidate No. 29577 with the other two cases and defer consideration of the motion to dismiss until consideration of the consolidated cases on the merits. General Electric renews its contention that the Union is not an aggrieved party and urges that we adhere to our order dismissing No. 29577.

We find nothing in *Scofield* that requires us to deny the motion to dismiss No. 29577. If No. 29577 were not dismissed, we would consolidate it with the other two cases. That being so, the Union will not be adversely affected by a dismissal of No. 29577 because it will be permitted as intervenor to raise all relevant issues upon review of the other two cases. Since there are consequences which may flow from a finding of "aggrieved" status that have not been fully presented and considered in this case, see, e.g., *Insurance Workers* v. *N. L. R. B.* (D.C. Cir.), No. 19555 (February 28, 1966), we are loath to take an action that is not necessary to protect the interests of the Union. Therefore, we deny the Union's suggestion that we defer action on the motion of General Electric to dismiss No. 29577.

Cases Nos. 29502 and 29576 are consolidated for review. The International Union of Electrical, Radio and Machine Workers, AFL-CIO, is granted permission to intervene in those actions. Case No. 29577 is dismissed.